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UNITED STATES DISTRICT COURT

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Fourth District

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CHARLES JOHN HORNACK

2006 JAN 13 A 11: 33

V.

**COMPLAINT**

TOWN OF DUNCAN

Case Number:

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Charles John Hornack, Plaintiff alleges:

1. This action is brought under the Freedom of Information Act, as amended (5 USCA § 552 (a)(4)(B)), and seeks a preliminary and final injunction under the Act against defendant, Town of Duncan's withholding certain information from plaintiff, and directing that the information be disclosed to plaintiff.

2. Plaintiff resides at 115 Old Spartanburg Road, Duncan, Spartanburg County, South Carolina. Defendant, Town of Duncan, is a Municipality within the boundary of Spartanburg County, South Carolina, within the meaning of the Act.

3. Plaintiff, Charles John Hornack, is a duly elected Councilmember for the second ward within the Town of Duncan, upon July 12, 2004, pursuant to Duncan Ordinance 2-25, S.C. Code 1976, §5-15-150; S.C. Cont Art VI, §5, Plaintiff affirmed the oath and was sworn into office.

4. Venue of this action is properly laid in this court.

5. Defendant, Town of Duncan, maintains certain records consisting generally of:

- a. All documentation of all town vehicles from 1995 to present date, and;
- b. Supplementary schedule [uncondensed] from the annual audit of victim advocate/assistance accounts, and;

c. Police fines that have been adjusted, whereas each fine that was received, how that fine was distributed throughout the town's budget during fiscal year 2004/2005, and;

d. Detailed reports regarding police fines, and;

e. Detailed reports regarding victim advocate/assistance programs, and data from 1999 to present date, and;

f. Written, oral and any other type of bids for the sewer, streets, and administration departments for the town of Duncan for the last six months,

which relate to the Defendant's financial affairs, and in which plaintiff has an interest by reason of inherently residing within the town boundaries and paying levies due as a taxpayer on such property, and being a duly elected council member of the town of Duncan. On or about December 16, 2005, plaintiff duly requested in writing and verbal that Defendant, town of Duncan through the appropriate officer or employee, disclose the records above-mentioned to plaintiff, and that it permit inspection and copying of them. This request has not been answered since the filing date.

6. While non-disclosure for such documents of this nature is unusual, such raises the question of improprieties with the town of Duncan's operation. The plaintiff requests that a complete fraud audit of all town affairs.

7. Attached as Exhibits:

a. Original written request, and;

b. Letter from Defendant's attorney, Andrew G. Goodson confirming request date, Defendants disposition, and plaintiff's call log and comments located on back of letter, and;

c. Letter from Defendant obtained within councilmember's packet, for the January 9<sup>th</sup>, 2006, council meeting, and;

d. Agenda of council meeting, obtained within councilmember's packet, for the January 9<sup>th</sup>, 2006, council meeting.

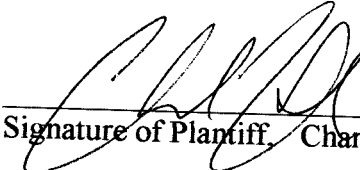
8. Plaintiff has incurred and will continue to incur expenses during this suit.

**Wherefore**, plaintiff requests judgment for:

1. A preliminary and final injunction prohibiting defendant from withholding from plaintiff the records referred to and described above;
2. A preliminary and final injunction directing defendant to make the records available to plaintiff, and permit the inspection and copying of them;
3. Fees, cost and expenses;
4. Enjoinment regarding the scope of access by a councilmember within a municipality
5. Such other and further relief as to the court may seem proper.

SWORN to and Subscribed before me )  
this \_\_\_\_ day of \_\_\_\_\_, 2005 )

\_\_\_\_\_  
Notary Public for South Carolina )  
My Commission expires: \_\_\_\_\_ )

 13 JAN 2006  
Signature of Plaintiff Charles John Hornack